

American Rescue Plan Act of 2021 (ARPA)

Coronavirus Local Fiscal Recovery Funds (CLFRF)

State of Kansas Supplemental Frequently Asked Questions (FAQs)

The following topics are applicable to Non-entitlement Units of Local Government (NEUs) in the State of Kansas (SOK).

A. What are NEUs?

- An NEU is a city with a population of less than 50,000. Under federal law, generally, a “metropolitan city” is defined as a city with a population greater than or equal to 50,000. Under the provisions of ARPA, NEUs are Non-entitlement Units of Local Government, or a city that is not a metropolitan city.
- A list of known NEUs, made up of incorporated cities, is posted on the Office of Recovery website [here](#).
- Kansas, along with 7 other states (Illinois, Indiana, Missouri, Nebraska, North Dakota, Ohio, and South Dakota) were identified as weak-minor civil divisions (“MCD”) states. MCDs generally play less of a governmental role but are still active governmental units. Kansas was required, by Treasury, to undertake a “facts-and-circumstances” test to determine eligibility of the MCDs based on their legal and operational capacity to accept ARPA funds and a requirement that MCDs provide a broad range of services that would constitute eligible uses under ARPA.
- Per review of annual budgets, Minor Civil Divisions across Kansas were categorically excluded due to a lack of evidence of operational capacity and a lack of evidence that entities provide a “broad range of services that would constitute eligible uses under ARPA.” To view a list of Minor Civil Divisions that were excluded, click [here](#).
- In addition to the Treasury’s eligibility compliance requirements, the majority of townships exceeded the 75% budget allocation cap, which would have resulted in funds that exceed \$25M returned to Treasury. The Governor will recommend setting aside SFRF dollars from SPARK for townships who did not receive LFRF dollars for eligible projects.

B. What are “local governments”?

- For the purpose of the SOK ARPA fund distributions, a “local government” means any SOK metropolitan city (population of 50,000 or greater), a county or a NEU.

C. Are there requirements to prove revenue loss or any other eligibility requirements to receive funds?

- No, experiencing revenue loss is not a pre-requisite for receiving funds. Accounting for revenue loss is one possible use of funds, not a requirement.
- NEUs must complete an application to certify and accept funds but there are no other eligibility requirements for receiving these funds.

D. Can NEUs decline the distribution in part or in full? If so, how do NEUs communicate the decision to decline funds?

- Yes. NEUs can decline receipt of the awards by opting out within the application process.
- If an NEU opts out of funds within the application process, their allocation amount will be transferred to the State under Section 603(c)(4) of the Act. Treasury will treat this action as a cancellation of the award on the part of the eligible NEU and a modification of the award to the State.
- As part of this process, the NEU must provide a signed notice to the State. If the NEU does not provide such notice, it will remain legally obligated under the award (with respect to accounting) for use of the funds and reporting on such uses.
- For those NEUs who opt out through the application process, the SOK will provide the appropriate standard notice form, once the form is made available by Treasury.
- If an NEU does not formally opt out or accept funds through the application process, an NEU will be deemed unresponsive and funds will be redistributed to remaining NEUs who have certified their acceptance of funds, up to their 75% budget cap.

E. Can the NEU choose the distribution payment method (i.e. check or ACH)?

- The SOK will remit all distributions electronically via ACH to ensure timely and trackable delivery.
- Once an application is completed and validated, NEUs will receive confirmation of a payment in process.
- The bank account used is the same as the one used for the gas tax paid to your entity on April 22, 2021. The gas tax payment is also referred to as the "Special Highway Tax Dollars."

F. How was each NEU's distribution calculated?

- The allocation to NEUs was based on the proportion the population of the NEU bears to the total population of all the NEUs in the SOK, subject to a cap that is not to exceed 75 percent of the most recent budget for the NEU as of January 27, 2020.

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| <p>G. Do eligible NEUs have to have a valid DUNS number in order to receive their allocation from the State of Kansas?</p> | <ul style="list-style-type: none"> - Yes. The SOK is required to collect from the NEUs a valid DUNS number as a part of the process to apply for and certify acceptance of funds prior to the initial allocation of funding. - There is an option in the application process to notify the SOK that a DUNS number application is in process. In this case, the NEU can submit the remainder of the application and the SOK will follow up to collect the valid DUNS number after the application has been submitted and before funds are distributed. - If an entity does not have a valid DUNS number, please visit https://fedgov.dnb.com/webform/ or call 1-866-705-5711 to begin the registration process." - See FAQ L below for additional information required to receive funds. |
| <p>H. What are some recommendations for efficient and allowable uses to minimize the long-term reporting requirements?</p> | <ul style="list-style-type: none"> - Generally speaking, projects that result in multiple subrecipients and/or vendors will incur greater reporting and compliance requirements. Additionally, the utilization of the revenue replacement and qualified census tract provisions will also require significant administrative and reporting efforts. Use of funding to cover payroll and other internal costs or investments in one-time water, sewer, and storm-water infrastructure will generally reduce the overall administrative workload. |
| <p>I. Do NEUs need to have agreements approved by governing bodies prior to the distribution of funds?</p> | <ul style="list-style-type: none"> - The U.S. Department of the Treasury is requiring that the authorized representative of the jurisdiction sign and return both the Award Terms and Conditions for Non-entitlement Units of Local Government and the Assurances of Compliance with Title VI of the Civil Rights Act of 1964. Treasury does not require that the agreements be approved by governing bodies, so it would be up to the local jurisdiction to determine if the authorized representative has the authority to sign or if they need to go to the governing body for approval. |
| <p>J. Can NEUs hire an external consultant to submit the request for funds on their behalf?</p> | <ul style="list-style-type: none"> - The NEU's authorized representative will have to sign the documents but does not need to actually submit the request for initial payment. This is not a competitive application so doesn't necessarily warrant the use of an external consultant but certainly an NEU is free to engage a consultant if that is their preference. |

K. Are NEU funds for expenses going forward or can it be used for expenses previously?

- The covered or allowable period for this program began on March 3, 2021 so NEUs would be able to reimburse expenses previously incurred back to that date. Exceptions exist for providing assistance to households and premium pay as described on page 5 of the Compliance and Reporting Guidance - <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>.

L. What is the process for NEUs to receive funds from the SOK?

- A link to apply for American Rescue Plan Act (ARPA) Local Fiscal Relief Funds (LFRF), awarded by the U.S. Department of Treasury and disbursed from the State of Kansas was sent directly to the contacts on file for each NEU.
- The [Contact Us form](#) should be used to request additions to, or removal of, subscriptions to the listserv, using the drop down category of "Contact Information Update".
- In addition to DUNS, NEUs will be required to submit several other pieces of information. A complete list can be found at: https://home.treasury.gov/system/files/136/NEU_Checklist_for_Requesting_Initial_Payment.pdf
- Applications submitted successfully will be confirmed through an automated Docusign email with executed PDF forms attached.

The following topics are applicable to all local governments in the State of Kansas (SOK):

<p>1. What are the certification requirements?</p>	<ul style="list-style-type: none"> - For metropolitan cities and counties: in order to receive the ARP funding allocation, a certification (signed by an authorized officer) must be submitted directly to the U.S. Treasury from the metropolitan city or county.
<p>2. How can ARPA funds be used?</p>	<ul style="list-style-type: none"> - ARPA direct funding to state and local governments can be used to: <ul style="list-style-type: none"> i. Respond to the public health emergency with respect to COVID-19 or its negative economic impacts, including assistance to: <ul style="list-style-type: none"> 1. Households, small businesses, and nonprofits 2. Aid to impacted industries (e.g. tourism, travel, and hospitality) ii. Provide premium pay or grants to workers performing essential work during the pandemic. iii. Provide government services to the extent of reduction in revenue due to COVID-19 relative to revenues collected in most recent full fiscal year. iv. Make necessary investments in water, sewer, or broadband infrastructure.
<p>3. Can ARPA funds be used to hire new staff?</p>	<ul style="list-style-type: none"> - Yes, The Interim Final Rule includes as an eligible use re-hiring public sector staff up to the government's level of pre-pandemic employment. "Public sector staff" would not include individuals participating in a job training or subsidized employment program administered by the recipient.
<p>4. Are there any restrictions on the use of funds?</p>	<ul style="list-style-type: none"> - Local government may not use funds made available under this section for deposit into any pension fund. With the release of the CLFRF Frequent Asked Questions (FAQ) guidance document by the U.S. Department of Treasury on May 10, 2021, jurisdictions should refer to Treasury FAQs Section 8 for the latest guidance. - Treasury's Interim Final Rule also provides more information on four important restrictions on use of SLFRF award funds: recipients may not deposit SLFRF funds into a pension fund; recipients that are States or territories may not use SLFRF funds to offset a reduction in net tax revenue caused by the recipient's change in law, regulation, or administrative interpretation; and, recipients may not use SLFRF funds as non-Federal match where prohibited. In addition, the Interim Final Rule clarifies certain uses of SLFRF funds outside the scope of eligible uses, including that recipients generally may not use SLFRF funds directly to

5. What is the timeframe for spending the funds?

- service debt, satisfy a judgment or settlement, or contribute to a “rainy day” fund. Recipients should refer to Treasury’s Interim Final Rule for more information on these restrictions
 - [See page 4 of the Treasury Compliance and Reporting Guidance](#)
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- Funds provided by ARPA are designated to cover costs incurred by December 31, 2024.
 - Jurisdictions should refer to Treasury FAQ number [6.2](#) for the latest guidance which indicates that funding must be obligated by December 31, 2024 but will remain available for expenditure and liquidation through December 31, 2026.
 - The interim final rule defines costs incurred as: "In recognition of this, Treasury is interpreting the requirement in section 602 and section 603 that costs be incurred by December 31, 2024, to require only that recipients have obligated the Fiscal Recovery Funds by such date."
 - "The period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with Fiscal Recovery Funds."

6. What is the timeline for receiving funds?

- Funds will be distributed to local governments and the SOK in two tranches (portions):
 - i. The first tranche will equal 50 percent of the total allocation and must be issued by the U.S. Treasury within 60 days of bill enactment (March 11, 2021), pending submission of certification by local governments and SOK on the behalf of the NEUs.
 - ii. The second tranche (the remaining 50 percent of the total allocation) is to be released by U.S. Treasury no earlier than 12 months after first tranche payment.
- NEUs should receive their first tranche distribution from the SOK by 7/31/21, within 30 days of the SOK’s receipt from the U.S. Treasury, including a 30-day extension.
- See [Treasury FAQ 11.12](#) for additional detail.

7. What are the reporting expectations?

- The provisions of ARPA require any local government to provide periodic reports to the U.S. Treasury providing a detailed accounting of the use of funds and any other information the Secretary of the Treasury may require.
- Any local government that does not comply with any provision of the ARPA will be required to repay the U.S. Treasury an amount equal to the amount of funds used in violation.
- Jurisdictions should refer to [Treasury FAQs Section 9](#) for the most up to date guidance.
- Reports will be due 30 days after the end of each calendar quarter. The first report will cover the period from award to September 30, 2021 and be due no later than October 31, 2021.

8. How is revenue loss defined?

- States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance Report. The first report will cover the period from award to July 31, 2021 and be due no later than August 31, 2021.
- Revenue loss is a reduction in revenue due to COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency.
- Jurisdictions should refer to [Treasury FAQs Section 3](#) for the most up to date guidance.

9. What is premium pay?

- Premium pay is a form of incentive payment or hazard pay for individuals completing essential services. ARPA states that premium pay can be made up to \$13 per hour, and that premium amount may not exceed \$25,000 with respect to any single eligible worker.
- Premium pay can be for public employees or by providing grants to eligible employers that have eligible workers who perform essential work.
- Jurisdictions should refer to [Treasury FAQs Section 5](#) for the most up to date guidance.

10. What other funding is Kansas receiving?

- In addition to approximately \$1B for local governments, Kansas is expected to receive approximately \$1.6B in State funding, as well as \$2.3B in funding for state agencies.

11. Can an entity partner with the state on a project?

- Yes, the SOK will collaborate with cities and counties for projects. Email recovery@ks.gov with any questions or suggestions.
- Monitor the [Recovery Office website](#) for forthcoming forms to submit questions and suggestions.

12. What are the major areas of compliance a local government should be considering as planning efforts for spending begin?

- Within the Code of Federal Regulations, Title 2 addresses Grants and Agreements. Specifically, Title 2 → Subtitle A → Chapter II → Part 200 is the link to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Part 200).
- The SOK will provide additional resources and guidance to establish a foundational knowledge of these requirements, but local governments should gain familiarity with these requirements as they begin assessing needs and should leverage a CPA for additional consultation.
- Jurisdictions should refer to [Treasury FAQs Section 9](#) for the most current guidance.

13. What are the audit implications for these awards?

- Keep in mind that a non-Federal entity that expends \$750,000 or more during the non-federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of Part 200.
- Jurisdictions should refer to [Treasury FAQs Section 9](#) for the most federal current guidance. See also the [Treasury Compliance and Reporting Guidance](#).

14. What pre-award actions should Kansas Counties and Metropolitan Cities be taking while waiting for the formal launch of the Coronavirus Local Fiscal Recovery Funds (CLFRF) Program?

- KSA 75-1117 et seq. provides the audit requirements for the SOK. Federal awards are considered in calculating gross receipts and could impact the NEUs audit requirement.
 - i. Any NEU with aggregate annual gross receipts exceeding \$275,000 but less than \$500,000 is subject to an Agreed Upon Procedures (AUP) review.
 - ii. Any NEU with aggregate annual gross receipts exceeding \$500,000 is subject to a regulatory basis or Generally Accepted Accounting Principles (GAAP) audit.

15. What is a Qualified Census Tract?

- Counties and Metropolitan Cities who will receive their allocation of CLFRF Program funding directly from Treasury should take the following actions as soon as possible:
- Ensure the entity has a valid DUNS number. If an entity does not have a valid DUNS number, please visit <https://fedgov.dnb.com/webform/> or call 1-866-705-5711 to begin the registration process.
- Ensure the entity has an active SAM registration. If an entity does not have an active SAM registration, please visit, [SAM.gov](https://sam.gov) to begin the entity registration or renewal process.
- Gather the entity's payment information, including:
 - Entity Identification Number (EIN), name, and contact information
 - Name and title of an authorized representative of the entity
 - Financial institution information (e.g., routing and account number, financial institution name and contact information)

16. Are there restrictions on use of funds for mental health and behavioral health?

- Qualified Census Tracts are those in which 50% or more of the households are income **eligible** and the population of all **census tracts** that satisfy this criterion does not exceed 20% of the total population of the respective area. Qualified Census Tract information can be found at: https://www.huduser.gov/portal/sadda/sadda_qct.html.
- There is flexibility in the Interim Final Rule (the Rule) released by Treasury on May 10, 2021 for administering funds, especially surrounding healthcare related activities. Additionally, one of the focuses on these funds is to lay a foundation in "addressing the systematic public health and economic challenges that may have contributed to more severe impacts of the pandemic among low-income communities and people of color" [\(p.8\)](#). Both behavioral health services and mental health treatment are listed as qualified medical expenses. This can include expenses related to services or outreach to promote access to behavioral health primary care. The Treasury quick reference guide states "behavioral healthcare services, including mental health or substance misuse treatment, crisis intervention, and related services" are an example of approved uses of funds. Additionally, the treasury fact sheet clarifies further that additional services include, hotlines or warmlines, other behavioral health services, an services or outreach to promote access to health and social services [\(p.4\)](#).

17. Are there restrictions on making new businesses (that did not exist prior to the pandemic) eligible for workforce programs (e.g., training, upskilling, direct payments)?

- However, it is extremely important when moving forward with programmatic decision-making that the various aspects of the program are reviewed for eligibility, reviewed to ensure that the CLFRF funds are not duplicating other federal funds, that the appropriate internal controls are put into place to protect the county as they move forward, and that there is a nexus to COVID-19.
- There are many factors to consider when designing support structures for small businesses using CLFRF funds. Although aid to small businesses is an allowable expense under 602(c)(1)(A) of the ARPA, this assistance needs to have a nexus to COVID-19. Additionally, Treasury FAQ [2.10](#), issued on May 10, 2020, states that “Recipients should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.” So, while businesses opened during COVID-19 are not specifically precluded from receiving assistance, they do need to show that they were impacted by COVID-19.

18. Is employment status considered a requirement to access services and payments administered by the county or municipality using ARPA funds?

- No – there is not language stating that employment status is a requirement for accessing services and payments by the county using ARPA funds. Section 2 of the Rule Called “Responding to Negative Economic Impacts” discusses assistance to households and states, “in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. In assessing whether a household or population experienced economic harm as a result of the pandemic, a recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low- or moderate-income experienced negative economic impacts resulting from the pandemic” ([p.29](#)). When looking at eligibility, one of the key considerations is if the applicant was impacted by COVID-19, per section 602 of the ARPA.

19. Does water and infrastructure include storm repair? To what extent?

- Yes, Stormwater projects are included under the Clean Water Infrastructure Category. The SLFRF Compliance and Reporting Guidance issued by Treasury on June 24, 2021 specifically list stormwater as an eligible project category on page 32.

20. Are we limited in administering certain programs only to select Census tracts? If so, how do we ensure proper documentation and compliance?

- [Treasury FAQ 2.11](#), as of June 24, 2021, states that treasury will presume eligibility of the following activities if provided in a qualified census tract:
 - Addressing health disparities and the social determinants of health, including: community health workers, public benefits navigators, remediation of lead paint or other lead hazards, and community violence intervention programs;
 - Building stronger neighborhoods and communities, including: supportive housing and other services for individuals experiencing homelessness, development of affordable housing, and housing vouchers

21. What is the deadline for Counties requesting allocations?

- and assistance relocating to neighborhoods with higher levels of economic opportunity;
 - Addressing educational disparities exacerbated by COVID-19, including: early learning services, increasing resources for high-poverty school districts, educational services like tutoring or afterschool programs, and supports for students' social, emotional, and mental health needs; and
 - Promoting healthy childhood environments, including: child care, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth
- While these activities are not limited from being administered outside of qualified census tracts, it is imperative that the county have clear policies, procedures, and guidelines in place to justify their programmatic decision making, document the eligibility of recipients, and have the proper controls in place to maintain compliance with federal funds.

22. Will entities have to establish bank accounts for these funds that cannot gain interest?

- The Interim Final Rule requires that costs be incurred by December 31, 2024. Eligible recipients are encouraged to apply as soon as possible. For recipients other than Tribal governments, there is not a specific application deadline. Tribal governments do have deadlines to complete the application process and should visit www.treasury.gov/SLFRPTribal for guidance on applicable deadlines.
- See [Treasury FAQ 10.4](#) for further detail

23. Where can I find more information on the Capital Improvements Funds?

- No. CSFRF/CLFRF payments made by Treasury to states, territories, and the District of Columbia are not subject to the requirement of the Cash Management Improvement Act and Treasury's implementing regulations at 31 CFR part 205 to remit interest to Treasury. CSFRF/CLFRF payments made by Treasury to local governments and Tribes are not subject to the requirement of 2 CFR 200.305(b)(8)–(9) to maintain balances in an interest-bearing account and remit payments to Treasury.
- See [Treasury FAQ 10.3](#) for further detail

24. What is the guidance for what are allowable grants to local non profits?

- The most current information available is contained on the U.S. Department of Treasury's Capital Projects Fund website at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>
- As of June 25, 2021, it is anticipated that additional guidance and application will be available this summer.
- At this time the most useful resource is the [Frequently Asked Questions document](#) issued by Treasury on May 10, 2021 and updated most recently on June 24, 2021. In particular sections 2-6.

Appendix:

Date Updated	Questions Updated	Content Updated
5/17/21	NEU questions A-F, general local government questions 1-14	Questions specific to NEU listed as letters, general local government questions as numbers
6/1/21	NEU questions G-H, general local government questions 1, 3, 5, 6 7, 15-24	New questions added following release of updated Treasury guidance, updates to questions 1, 3, 5, 6, 7, and 15-24
6/7/21	NEU questions I-K	New questions added following NEU webinar 6/3
7/8/21	NEU questions A, C, D, G, J, K, general local government questions 1, 3-5, 7, 17, 19-24	Updates to answers based upon updated Treasury guidance